

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
MOLOKAI PUBLIC UTILITIES, INC.)
For Review and Approval of Rate)
Increases, Revised Rate Schedules,)
and Revised Rules.)

DOCKET NO. 2009-0048

ORDER DISMISSING STAND FOR WATER AS AN INTERVENOR

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PUBLIC UTILITIES
COMMISSION

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ORDER DISMISSING STAND FOR WATER AS AN INTERVENOR

By this Order, the commission, on its own motion, dismisses STAND FOR WATER ("SFW") as an intervenor in this proceeding.¹

I.

Dismissal of SFW as an Intervenor

On October 16, 2009, the commission granted intervention to SFW, subject to certain conditions, including the proviso that the commission will reconsider SFW's participation in this docket if, at any time during the course of this proceeding, the commission determines that SFW fails to contribute to the development of a sound record, meaningfully

¹With the dismissal of SFW, the remaining Parties are MOLOKAI PUBLIC UTILITIES, INC. ("MPU"), MOLOKAI PROPERTIES LIMITED ("MPL"), the COUNTY OF MAUI ("County"), WEST MOLOKAI ASSOCIATION ("WMA"), and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY, an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).

participate in this proceeding, or follow the commission's rules or orders.²

To date, the docket record reveals the following lack of action on SFW's part in this proceeding:

1. The deadline for SFW to timely submit its proposed prehearing order was October 28, 2009. Instead, SFW belatedly submitted its proposed procedural order on October 29, 2009; thus, SFW's untimely filing was not considered by the commission.³

2. By letter dated November 3, 2009, the commission instructed SFW to promptly: (A) serve a copy of its affidavits and exhibits in support of its motion to intervene upon MPL's counsel and (B) file a supplemental certificate of service with the commission, certifying the date and manner of service upon MPL's counsel. SFW has not complied with the commission's directive.

3. The deadline for the parties to submit their amended protective order to the commission was November 12, 2009. SFW did not submit its proposed amended protective order, or otherwise join in the amended protective order timely and jointly proposed by the other parties.

4. By letter dated November 13, 2009, the commission instructed SFW to confirm to the commission, by

²Ordering Paragraph No. 6 of Order Granting Intervention to the County, WMA, and SFW, filed on October 16, 2009.

³See Order Approving Proposed Procedural Order, as Modified, filed on November 6, 2009 ("Procedural Order"), at 2 n.5.

November 19, 2009, whether it was withdrawing as an intervenor in this proceeding. SFW did not comply with the commission's directive.

5. The deadline dates for SFW to submit its initial and follow-up information requests were November 9, 2009 and December 7, 2009, respectively. SFW did not issue any information requests to MPU.

6. The deadline for SFW to file its direct testimonies and exhibits was January 6, 2010. SFW did not file any direct testimonies or exhibits, notwithstanding the fact that in its motion to intervene, which formed the basis for the commission's decision to grant SFW intervenor status, SFW listed eight "expert" witnesses on its behalf. Without SFW's timely direct testimonies and exhibits, SFW has failed to present any evidence or arguments to which MPU may have the opportunity to rebut as part of the water utility's forthcoming rebuttal testimonies and exhibits.⁴

Based on these findings, the commission ultimately finds and concludes that SFW has failed to contribute to the

⁴Section IV of the exhibit attached to the commission's Procedural Order states in respective part:

Witnesses shall submit pre-filed written testimony and exhibits and shall be made available for cross-examination at the hearing. Witnesses shall file with their pre-filed written testimony and exhibits, the work papers used in preparing the evidence they sponsor at the hearing. Witnesses will not be permitted to read pre-filed testimony at the hearing[.]

Procedural Order, Exhibit/Section IV, at 6 (emphasis added); see also HAR § 6-61-45 (prepared testimony).

development of a sound record, meaningfully participate in this proceeding, or follow the commission's orders and directives. Accordingly, the commission, on its own motion, dismisses SFW as an intervenor in this proceeding.

II.

Orders

THE COMMISSION ORDERS:

1. Stand for Water is dismissed as an intervenor in this proceeding.

2. Following the issuance of this Order, Stand for Water shall be removed from the commission's service list for this proceeding.

DONE at Honolulu, Hawaii JAN 19 2010.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

By Leslie H. Kondo
Leslie H. Kondo, Commissioner

Michael Azama
Michael Azama
Commission Counsel

2009-0048.cp

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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Certificate of Service

Page 2

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